

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>BRIAN MCCUTCHEN,</b>	:	<b>CIVIL ACTION</b>
	:	
<b>Petitioner,</b>	:	<b>NO. 07-1730</b>
	:	
<b>v.</b>	:	
	:	
<b>MARILYN S. BROOKS, et al.</b>	:	
	:	
<b>Respondents.</b>	:	

**ORDER**

**AND NOW**, this 29th day of November, 2007, upon careful and independent consideration of petitioner's *pro se* petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 (Docket No. 1), and after reviewing the Report and Recommendation of United States Magistrate Judge Peter B. Scuderi (Docket No. 11),<sup>1</sup> it is hereby **ORDERED** that:

1. The Report and Recommendation is **APPROVED** and **ADOPTED**;
2. The petition filed pursuant to 28 U.S.C. § 2254 is **DISMISSED**  
**WITHOUT PREJUDICE**;
3. There is no basis for the issuance of a certificate of appealability.
4. The Clerk of Court shall mark this case as **CLOSED** for statistical purposes.

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<sup>1</sup>Objections to the Report and Recommendation filed by Magistrate Judge Wells were due on or before October 16, 2007. The parties have not filed timely objections to the Report and Recommendation.

BY THE COURT:

/s/ Lawrence F. Stengel  
LAWRENCE F. STENGEL, J.